

WIGGIN & DANA LLP
450 Lexington Avenue
Suite 3800
New York, NY 10017-3914
212-490-1700
Joseph G. Grasso
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEW STREAM COMMERCIAL FINANCE,
LLC,

Plaintiff,

-against-

STAR OF AMERICA, O.N. 973452, her engines, tackle, gear and appurtenances, etc., *in rem*; MAJESTIC STAR, O.N. 1100715, her engines, tackle, gear and appurtenances, etc., *in rem*; Majestic Voyages, Inc., *in personam*; and Majestic Star, Inc., *in personam*,

Defendants

Civ. No. 08 CV 3171 (AKH)
(In Admiralty)

AFFIDAVIT OF ATTORNEY
STEVEN B. MALECH IN
SUPPORT OF MOTION TO
CONFIRM INTERLOCUTORY
SALE

State of New York :
 : SS. New York City
County of New York :

Steven B. Malech, being duly sworn, deposes and says:

1. I am an attorney with the law firm of Wiggin and Dana LLP, which represents plaintiff New Stream Commercial Finance, LLC (“New Stream”), in connection with this matter. I make this Affidavit in Support of New Stream’s motion for confirmation of the interlocutory sale of the vessels Star of America, O.N. 973452, and Majestic Star, O.N. 1100715 (the “Vessels”).

2. Pursuant to the Order of Interlocutory Sale entered in this matter on May 22, 2008 (the "May 22 Order"), directing the sale of the Vessels, notice of the sale was published in the New York Times and the Newark Star Ledger on six consecutive days, from May 27, 2008, up to and including June 1, 2008. A copy of the Certification of Publication from the Newark Star Ledger is attached hereto as Exhibit A and a copy of the Certification of Publication from the New York Times is attached hereto as Exhibit B.

3. The sale was conducted by deputy supervisory United States Marshall Angelo D'Addario on June 2, 2008, at 1 p.m. in the lobby of the United States Court House, 500 Pearl Street, New York, New York, as directed by the May 22 Order and in accordance with the terms of the published notice.

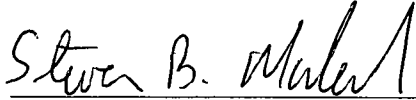
4. During the time period between the entry of the May 22 Order and the sale on June 2, Wiggin and Dana received no inquiries concerning the sale of the Vessels.

5. I attended the sale and observed representatives of the United States Small Business Administration and several groups of individuals interested in watching the proceedings. The only bidder was New Stream, which submitted a credit bid of \$1.6 million for the Star of America and \$1.9 million for the Majestic Star.

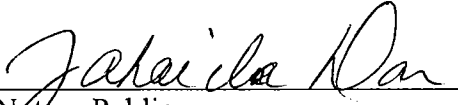
6. Since the sale, neither I nor any other attorney at Wiggin and Dana has received an objection to the sale from any person, corporation or firm. To the contrary, Defendants, the United States Small Business Administration and Biltone, Inc. (the three-appearing parties) have expressly represented that they have no objection to the confirmation of the sale.

7. The principal amount owed by Defendants to New Stream is \$5,213,447.98, plus interest and costs.

8. New Stream is a citizen of the United States.


Steven B. Malech

Subscribed and sworn to before
me this 6th day of June, 2008.


Notary Public
My Commission Expires:

JAHADA DARI
Notary Public, State of New York
No. 01DA6065352
Qualified in New York County
Commission Expires Oct. 15, 2009

EXHIBIT A

AUCTIONS**NOTICE OF SALE**

U.S. District Court - Southern District of New York (Docket No. 1:08-cv-03171-AKH) New Stream Commercial Finance, LLC v. STAR OF AMERICA, O.N. 973452, et al. Pursuant to an Order of Interlocutory Sale issued by the Honorable Alvin K. Hellerstein and entered on May 22, 2008, I will sell at Public Auction to the highest bidder at the lobby of the United States Court House, 500 Pearl Street, New York County of New York, State of New York, New York, on June 2, 2008, at 1 p.m., the Vessels known as STAR OF AMERICA, O.N. 973452, and MAJESTIC STAR, O.N. 1100715, as well as their engines, apparel, equipment, furniture, gear, tackle and appurtenances as both Vessels now lie at Surfside 2 Marina, Chelsea Piers, Pier 60, New York, New York. Both Vessels will be auctioned together. If no bid for both Vessels equals or exceeds \$3.5 million, then each Vessel will be auctioned individually with a minimum bid of at least \$1.9 million required for the MAJESTIC STAR and of at least \$1.6 million for the STAR OF AMERICA. The successful bidder must immediately deposit 10% of the bid with the Marshal and pay the remaining balance within 5 business days. Payment shall be by cashier's check made payable to the United States Marshal. The sale is subject to confirmation by the Court after all funds are received by the Marshal. If the successful bidder fails to make the required payments within 5 business days, the Marshal shall give the next highest bidder (above the minimum bid amount) another 5 business days to complete the purchase at the second highest bid price (above the minimum bid). Failure to pay the balance in accordance with terms of sale will result in the forfeiture of monies deposited and, in the absence of any other bid above the applicable minimum, the property will be re-offered for sale. Notwithstanding the foregoing, the Plaintiff shall be allowed to bid up to \$5,213,447.98 without making any payment to the U.S. Marshal. The sale shall comply with all laws of the U.S., including the citizenship requirements of Section 2 of the Shipping Act of 1916 as amended. Angelo D'Addario, United States Marshal.

STATE OF NEW JERSEY }
COUNTY OF ESSEX } SS

Maura Malone

Being duly sworn, according to law, on h_____ oath sayeth that

She is Clerk of the

Star-Ledger, in said County of Essex, and that the notice, of

which the attached is a copy, was published in said paper

on the 5/27, 28, 29, 30, 31 & 6/1 day of May - June

and continued therein for _____

successively, at least once in each _____

for (6) 6 days

Maura Malone

Sworn to and subscribed

before me this 2

day of June, 2008

Kathleen Sconzo

NOTARY PUBLIC of NEW JERSEY

KATHLEEN SCONZO
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES NOV. 13, 2012

EXHIBIT B



The New York Times

620 8TH AVENUE • NEW YORK, NY 10018

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CERTIFICATION OF PUBLICATION

June 4 2008

Cathy Zike

I, _____, in my capacity as a Principal Clerk of the Publisher of **The New York Times** a daily newspaper of general circulation printed and published in the City, County and State of New York, hereby certify that the advertisement annexed hereto was published in the editions of **The New York Times** on the following date or dates, to wit on

June 1 2008

Cathy Zike

Approved:

Maria Pannullo

THIS CERTIFICATION NOT VALID WITHOUT NYT RAISED SEAL
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The New York Times

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June 4 20 08

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May 31 20 08
Cathy Zike

Approved:

Maria Pannullo

THIS CERTIFICATION
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The New York Times

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May 28 20 08

Cathy Ziko

Approved:

Maria Pannullo

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The New York Times

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SEC. F PG 7

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